

Basic Rights in Special Education

Overview of Laws and Special Education Processes

Individuals with Disabilities Education Act IDEA 2014

Intended to assist children with disabilities to achieve to higher standards by:

- Promoting accountability for results
- Enhancing parental involvement
- Using proven practices and materials
- Providing more flexibility

Steps in the Special Education Process



What do you do if you feel that your child needs Special Education services?

- Referral Process

- Parent requests a referral in writing
- School must review referral within 10 school days of receipt
- If evaluation is needed, it will begin no later than 10 school days after the receipt of the parental consent
- Timelines are the same for re-evaluations

Consent to Evaluate

- If the district agrees to act on referral:
 - The Team chooses the areas and types of evaluations
 - Seeks written parental consent
 - If parent doesn't consent within 15 school days of the request, the Team must reconvene to consider course of action.

- If the district does not act on referral:
 - Student may be referred to the school's RTI team or accommodations may be discussed.
 - Parent can seek mediation or due process

Timelines for Evaluation/Eligibility

Within 60 calendar days from receipt of parent evaluation consent:

1. Child must be evaluated
2. Written reports from evaluators made available to the Team, including the parents.
3. Eligibility determination must be conducted.

(3 questions to consider: 1. Does the student have a learning disability? 2. Is the student making effective progress within the general curriculum? 3. Is the lack of progress due to the diagnosis?)

If determined eligible, IEP is developed and made available to student/family within 15 school days

Following development of the IEP, special education and related services must be available no later than 10 school days.

Not every student needs specially designed instruction. What if NOT determined eligible?

- Discuss what interventions the school has that can assist your student
- What are the school's RTI procedures?
- How is progress data collected and reviewed?
- Independent Educational Evaluation (IEE)

Members of the Evaluation Team

- Parents
- Special educator
- Regular educator
- Representative of the Public Agency (LEA)
- Individual(s) who can interpret evaluation results
- Others with knowledge/expertise
- Child, when appropriate (by age 14)

Role of the Evaluation Team

- Review referral
- Determine if evaluation(s) is/are required
- Determine type of evaluation(s) needed
 - (non-biased, norm referenced; in the student's native language [SE not LEP] or other mode of communication; include a variety of tools/strategies)
- Determine eligibility
- Develop written report (summary) from meeting
- Share information with IEP team
- Does not determine services and/or placement

Eligibility Categories

- Intellectual disability
- Hearing impairment/deaf
- Speech or language impairment
- Emotional disturbance
- Orthopedic impairment
- ASD
- TBI
- Other health impairment
- SLD
- Vision/blindness
- Multiple disabilities
- Developmental Delay (between the ages of 3 and 8)

Re-Evaluations

- Can not be conducted more than one time per year unless parent/district agree otherwise
- Conducted at least every 3 years unless parent/district agree otherwise*
- Timelines are the same as for initial evaluation

REVIEW-Timelines

- REFERRAL- 10 school days to review (full evaluation Team)
- EVALUATION-10 school days from the receipt of written consent
- ELIGIBILITY DETERMINATION-60 days from receipt of written consent
- IEP DEVELOPED-15 school days from eligibility
- IEP IMPLEMENTED-no later than 10 school days after IEP is developed

Once eligibility is determined:

- Team will discuss and recommend:
 - specific strengths,
 - areas of need,
 - Present levels of performance,
 - effect of disability on progress in the general ed setting,
 - modifications needed to function in the general ed setting.

Individualized Education Program (IEP)

- Specific annual, written program designed for the student
- Developed by the Team
 - Develop goals/objectives
 - Determine if accommodations, modifications, and related services are needed
 - Determine educational placement (options)
 - Determine/agree to excusal if a Team member isn't able to attend
- Designed to meet the individual needs of the student with a disability
- Reviewed and updated annually
- A living and fluid document that can be amended based on the student's needs.

Procedural Safeguards

- Parent Consent/Absence of Consent
- Examination of Records
- Parent Participation in Meetings
- Independent Educational Evaluation (IEE)
- Prior Notice/Content
- Procedural Safeguards
- Mediation
- Due Process (procedural or special education complaint)
- Resolution

Parental Consent (written)

- **Required for:**

- Initial Evaluation
- Re-evaluations
- Initial provision of special education and related services

- **Not Required for:**

- Reviewing data
- Administering tests/assessments for all students
- Annual IEPs

If a parent refuses consent:

- Without consent for initial or re-evaluation, the district may, but isn't required to, pursue the consent to evaluate.
- Without consent of special education services, the district **CANNOT** provide services or pursue Due Process.
 - District NOT considered in violation of FAPE
 - District NOT required to meet or develop IEP
 - District can't use parent's refusal of consent to one service to deny any other service.

Examination of Records/Participation in Meetings

- District must afford parents the opportunity to:
 - Inspect educational records
 - Participate in meetings
 - Receive notice of meetings
 - Participate in placement decisions
- District must take steps to ensure parent participation by providing:
 - Meeting Notification (in writing 10 days prior*)
 - Scheduled at a mutually agreed upon time
 - Purpose of meeting
 - Other methods to ensure participation (conference calls/virtual meetings)
 - Interpreters (provided by district)
 - Provide parents with copy of proposed IEP within 10 calendar days

Independent Educational Evaluation (IEE)

- Right to disagree with district's evaluation
- Right to IEE at public expense
- District must respond within 15 calendar days
- Only one IEE for each evaluation provided by agency
- District must provide information where to obtain an IEE
- Parent may pursue an outside evaluation at their expense at any time and the district must 'consider' the results

Prior Written Notice (PWN)

- Required 10 days before proposal or refusal of identification, evaluation and placement occur
- Must describe the action, explain the action, describe the procedures involved, provide links to information for parents (Procedural safeguards, District information, RIPIN contacts)
- Must be provided in the native language of the parent

Procedural Safeguard Notice

- Provided once per year and when:
 - There's an initial referral
 - Parent request for evaluation
 - Upon receipt of 1st state complaint or due process complaint
 - In accordance with school discipline procedures
 - Upon request
 - Can be emailed and/or posted on district website

Dispute Resolution Process

Steps to take when you don't agree with the district's decisions

Mediation

- Dispute resolution system
- Voluntary
- Not used to deny/delay due process
- Impartial mediator
- Scheduled in a timely manner
- Legally binding

Due Process Complaint

- General (formalization onto state form, available on RIDE website)
- Info for Parents (free or low-cost legal services)
- Content of Complaint (child information, nature of problem and proposed resolution)
- Notice Required (no hearing until form submitted)
- Sufficiency Determined (15 days to determine if complaint meets requirements)
- Amendments (only if other party consents in writing)

Dispute Resolution Process

Steps to take when you don't agree with the district's decisions

- Resolution Session
 - Opportunity to discuss request for hearing
 - LEA provides opportunity to resolve
 - Can be waived or use Mediation
 - LEA convenes meeting
 - May not include attorney, unless parent brings an attorney
 - 15 days from request
 - If resolution not reached, 30 days to have hearing
 - If resolution reached, legally binding agreement signed by both parties
 - Can be voided within 3 business days of agreement

Dispute Resolution Process

Steps to take when you don't agree with the district's decisions

- Impartial Due Process Hearing:
 - Must have an impartial hearing officer present
 - Focussed on initial dispute (cannot raise new issues)
 - Can request a hearing up to 24 months of initial complaining
 - Parent may choose to be represented by counsel
 - Child may be present, Hearing may be open to the public, Record of findings provided
 - Hearing decision is final; may impede FAPE, Parental decision-making, and educational benefit
 - Hearing decision within 45 days from hearing
 - All associated fees may be awarded
 - Child must remain in current placement until decision is rendered

Dispute Resolution Process

Steps to take when you don't agree with the district's decisions

- State Complaint (60 days)
 - Administrative complaint
 - Filed with RIDE and the district
 - RIDE will investigate and issue findings/written decision
 - Must be resolved within 60 calendar days from the receipt of the complaint

THANK YOU FOR YOUR TIME AND PATIENCE!!

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